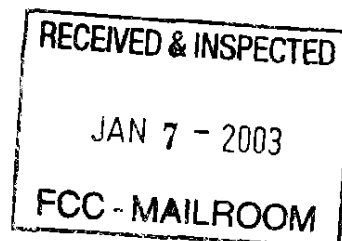


**KBCT FM 94.5 the**



In the matter of

2002 Biennial Regulatory Review — )  
 Review of the Commission' )  
 Broadcast Ownership Rules and )  
 Other Rules Adopted Pursuant )  
 to Section 202 of the )  
 Telecommunications Act of 1996. )

**MB** Docket No. 00-277

Cross-Ownership of Broadcast )  
 Stations and Newspapers )

MM Docket No. 01-235

Rules and Policies Concerning )  
 Multiple Ownership of Radio )  
 Broadcast Stations in )  
 Local Markets )

MM Docket No. 01-317

Definition of Radio Markets

MM Docket No. 00-244

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December 30, 2002

Federal Communications Commission  
Media Bureau  
445 12<sup>th</sup> Street **SW**  
Washington, DC 20554

Comments regarding MM Docket No. 00-244 and MM Docket No. 01-317

I **am** the owner and general manager of a single FM station in Waco. I would like to register my opposition to the rules that allow the total domination of the Waco radio market by Clear Channel Communications.

Clear Channel controls five stations, with about 90% of the advertising revenues, in the Waco market even though they have less than 45% of the total audience share. The **six** other local stations have less than 10% of the revenue.

In other words, their monopoly position allows them about 10 times as much advertising revenue with five stations as the other six local stations combined. Because of its monopoly position, Clear Channel can (and does) negotiate with advertising agencies to exclude other stations from advertising buys.

Formerly, the largest Chevrolet dealer in the area was a regular advertiser on almost all the stations in the market, including my station. Although we can't get anyone to put it in writing, we were told the Clear Channel sales manager made an agreement with the dealer's ad agency to offer a lower advertising rate in return for 100% of their radio budget.

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The national ad agency buyers are very willing to go along with this anti-competitive behavior as well. They call them "corporate buys" on the avail requests that are sent to the stations or their rep firms. But what they are offering are exclusive buys in return for a package deal.

Since the independent stations are unable to collaborate and are not able to offer more than one or two stations in the market we're squeezed out of the national advertising markets.

My station has lost over 90% of our national advertising revenues to Clear Channel since they took over the Waco market a couple of years ago. In a competitive market these monopoly transactions would not happen.

Since Clear Channel controls access to the largest stations in the market they can demand exclusivity on promotional activities also. For example, the Waco Chamber of Commerce sponsors a downtown music festival each fall.

In earlier years *most of the* stations in the market participated in promotion for the event. Stations would receive tickets for on air giveaways plus an advertising budget to cover on air promotion. Clear Channel is now the exclusive radio sponsor. Other stations are excluded.

Clear Channel is increasingly treating its Waco stations as little more than affiliates in a national network, transferring jobs and revenues to other markets. Local employment has been reduced by over 60%. Clear Channel stations with millions of dollars of annual revenue have only one or two local air staff with a commensurate reduction in local programming. My station, KBCT, with perhaps 10% of the revenue of Clear Channel's largest station, WACO, has a larger local air staff.

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Local listeners are deceived by very clever contest promotions offering hundreds of thousands of dollars in prizes but most listeners are not aware that the contests are offered on hundreds of Clear Channel stations across the country.

Clear Channel is even using their size to dominate the industry rating service. The Wall Street Journal has reported that Clear Channel, providing 22% of Arbitron's revenue, has demanded and received favorable treatment on Arbitron's market definitions.

The industry is in danger of losing the independence of its admittedly imperfect but at least previously impartial rating service. Arbitron's entire business model has depended on a large number of potential clients so that they could be seen as non-partisan.

The relationship between Clear Channel and Arbitron is now apparent. Arbitron, obviously at Clear Channel's mercy, probably would not survive a loss of 22% of their revenue. Perhaps that is the reason behind their recent spin off from Cendian. The ownership at Ceridian could see the future and didn't like the prospects.

The radio duopoly study undertaken on Clear Channel's behalf during an earlier proceeding ( File # BALH-20011107ABV ) concerning KBRQ-FM shows 45 radio stations in market 1. There are 67 stations in radio market 2.

Note the contour shown for KBRQ in the radio duopoly study. It overlaps some of Clear Channel's Dallas-Ft Worth stations but not several other Clear Channel stations that have transmitter sites at the same antenna farm and serve the same general Dallas-Ft Worth area with the same license of service.

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By installing a directional antenna at KBRQ, Clear Channel reduced the service area for KBRQ just enough to exclude at least two Dallas stations from market 1 so that even the current lax ownership limits could be evaded.

Only by making the markets artificially large can their ownership concentration be minimized. KBRQ is licensed to Hillsboro, a community in Hill County, Texas and about 60 km north of Waco. Two of Clear Channel's other Waco properties, WACO-FM and KWTX-FM are located about 40 km away from the KBRQ transmitter site.

By altering the KBRQ pattern, Clear Channel is bringing some of the Dallas stations into the equation but excluding other Dallas stations. Is this what the commission had in mind when the original rules were adopted?

The cities of license for the stations in market 1 span a distance of over 300 km, almost the distance from Washington to New York or from Washington to Pittsburgh. That's the Waco market according to the current rules.

As a matter of fact, Waco lies entirely within McLennan County, Texas. The population of the city is about 110,000. Our metro population is about 200,000. This includes the suburbs of Bellmead, Hewitt, Northcrest, Robinson and Woodway plus the outlying communities of Axtell, Crawford, Lorena, Mart, McGregor, Moody, Riesel and West.

Please note that the Dallas-Ft Worth metro area is about 150 km north of Waco, Austin is about 160 km south and the Killeen-Temple metro is about 60 km south. **Very few** shoppers, workers or residents of Waco also shop, **work and reside in** Dallas, Austin or even Temple. In short, they live in Waco, not somewhere else.

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It seems to me that the residents of Waco and its surrounding communities deserve radio service that is in the public interest of our community. Not in the narrow interest of a media conglomerate like Clear Channel.

There are 11 commercial radio stations in the Waco market. They are;

KLRK	92.9	KBBW	1010
KBCT	94.5	KWTX	1230
KCKR	95.7	KKTK	1460
KWTX	91.5	KRZI	1580/1660
WACO	99.9	(KRZI operates on 2 channels.	
KBRQ	102.5	One channel will go <b>dark</b> in	
KWOW	104.1	mid 2004).	
KWBU	103.3	non commercial	

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Stations in Dallas-Ft Worth, Austin or Killeen-Temple have no economic or community service significance in the Waco market. Advertisers in the Waco market buy radio advertising from the 11 stations listed above. Charitable and community service organizations in the Waco area receive free air time from stations in Waco.

They would not receive nor expect free air time from stations in Cedar Park (125 km south of Waco) or Denton (185 km north of Waco) although both are in market. To suggest that there are 45 or 67 or 112 stations competing for business and listeners in Waco is absurd.

Many of those stations are not even audible in Waco. No matter how many overlapping contours can be conjured, the only stations that can be considered to serve Waco, its residents and advertisers are the 12 local stations.

For example, would anyone purchase a Dallas radio station in order to offer different programming in Waco? Of course not. The cost of entry would be too high.

And what Dallas radio station will run public service announcements concerning a community event in Waco? None will. What out-of-market station is going to carry a Waco area high school football or basketball game? Again, none.

In fact, Clear Channel has even dropped all local high school sports programming from their stations, even from their stations that formerly carried local games. The local producers of high school sports now have fewer opportunities to carry their games on the radio.

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Clear Channel is clearly abusing their monopoly position to the detriment of other stations in the market. One local AM-FM combo has been forced into bankruptcy. Press reports indicate that the guidelines for market control **are** 40% for a single owner and 70% for two owners. Yet, we're subjected to a monopoly that controls 90%. It's outrageous.

In addition, the value of the properties of the Clear Channel competitors (ourselves included) has been diminished. Who in their right mind would pay any significant amount for one or more of the independent stations? How is the public interest served by having one company so dominate the airwaves in our community?

Clear Channel's anti-competitive behavior is not just in Waco and not just in radio. Clear Channel has been sued in federal court, accused of monopolistic and predatory practices in the concert promotion business.

Many of Clear Channel's pricing tactics make more sense if seen as attempts to control the market and maximize market share rather than to maximize revenue as most of us try to do.

I believe those practices are wide-spread in the company and that we are harmed by them here in Waco. But it's very difficult for us to prove. Ad agency buyers and their clients who are the recipients of the favorable treatment are generally unwilling to even talk about it. They're even less willing to put the information in writing.



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I believe the Commission should take this opportunity to correct an obvious mistake in letting one company monopolize a market to the extent that Clear Channel has done. Perhaps a single market the size of Waco does not seem of great importance to a company with 1200 stations or to the Commission but it matters to many people here in Waco.

The Commission should require Clear Channel to conform to the same limits in Waco that would be imposed in New York, Los Angeles or Washington.

Since the two oldest full power Class C stations, WACO-FM and KWTX-FM, together control more than 40% of the market, the Commission should require Clear Channel to divest one of those stations plus at least one other that they now control and not be allowed to continue their anti-competitive behavior. Behavior that is definitely not in the interest of local advertisers, other stations or of the public at large

Respectfully,

Jerry Lenamon, President  
Kennelwood Broadcasting Co., Inc.  
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Waco, Texas 76710